IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5606 OF 2005

Kalyan Dombivli Municipal Corporation ...Petitioner
V/s.
Shri Ramdular Dharmadatta Mishra & Anr. ...Respondents

Shri A.S.Rao for the Petitioner.
Shri Y.M. Chaudhari for Respondent Nos.1 and 2.

CORAM : V.M. KANADE, J.

DATED : MARCH 7, 2007

P.C. :-

1. Petitioner - Kalyan Dombivali Municipal Corporation is challenging the order passed by the trial Court and which is confirmed by the appellate court whereby the petitioner is restrained from interfering with the possession of the respondent without following due process of law.

2. It is the case of the respondents/plaintiffs that Municipal Corporation is trying to disturb the possession of the respondent without acquiring property as required by law. The learned Counsel for the petitioner submitted that as a result of stay order, the road widening has stopped. He submitted that if a proposal is made by the plaintiffs' Architect, then the proposal would be considered and either compensation or

TDR would be given to the plaintiffs.

3. In my view, it is not necessary to decide the rival contention on merits particularly when the interim order is in operation since 1998 but the trial Court, therefore, is directed to decide the suit, as expeditiously as possible and in any case, by the end of December 2007. The interim order which is passed by the lower court shall continue pending the hearing and final disposal of the suit.

4. It is clarified that in view of the statement made by the learned counsel for the Corporation, the plaintiffs are at liberty to make a proposal to the Corporation through Architect without prejudice to his rights and contentions raised in the suit and if such proposal is given by the respondents/plaintiffs, same would be considered by the Corporation within a period of three months.

. Writ petition, accordingly, is disposed of.

. Parties to act on the authenticated copy of this

order.

(V.M. Kanade, J.)